

Detailed immigration guidelines - information for managers

1. Introduction

Free movement from and to the EU will come to an end on **31 December 2020**.

From *1 December 2020* all foreign nationals, including from the European Union, who want to work in the UK from **1 January 2021** will be subject to the new [UK immigration rules](#) and have to apply online for a visa.

EU citizens already living in the UK by 31 December 2020 and their families do not have to go through the new system but instead can apply to the [EU Settlement Scheme](#), and have until *30 June 2021* to do so. If they are successful, they will be able to remain, work and study in the UK and claim the same benefits as UK citizens. Irish citizens do not need to apply to the scheme and will not require permission to come to the UK, as the UK and Ireland are both part of a Common Travel Area.

2. New point-based immigration system - Skilled Worker route

Under the new UK point-based immigration system, most existing economic routes into the UK remain largely unchanged with the exception of the current Tier 2 (General) route, which is being replaced by a **Skilled Worker** route.

The Skilled Worker route is for employers to recruit people to work in the UK in a specific job. A Skilled Worker must have a job offer in an eligible [skilled occupation](#) and at an appropriate skill level - RQF3 (A-level/Higher equivalent) or above from a Home Office-approved sponsor (NB. OBU remains a licensed sponsor and continues to provide Certificates of Sponsorship). A Skilled Worker must be proficient in English and be paid the general salary threshold of £25,600 per year *or* the going rate for the job, whichever is higher. If the individual earns less than £25,600 - but no less than £20,480 - they may still be able to apply by '*trading*' points on specific characteristics against their salary. A total of 70 points is required to be eligible to apply for a visa.

Mandatory points requirements	Points
Certificate of Sponsorship	20
Job at an appropriate skill level	20
English language skills at level B1 (intermediate)	10

An applicant must be awarded *20 tradeable points* from the table below. An applicant may only be awarded points from one entry in the table.

Option	Tradeable points requirements for each option	Points
A	The applicant's salary equals or exceeds both: <ul style="list-style-type: none"> • £25,600 per year; and • the going rate for the occupation code. 	20
B	Educational qualification: PhD in a subject relevant to the job* and the applicant's salary equals or exceeds both: <ul style="list-style-type: none"> • £23,040 per year; and • 90% of the going rate for the occupation code. In this entry, 10 points will be awarded for the educational qualification and 10 points will be awarded for the applicant's salary.	20
C	Educational qualification: PhD in a STEM subject relevant to the job** and the applicant's salary equals or exceeds both: <ul style="list-style-type: none"> • £20,480 per year; and • 80% of the going rate for the occupation code. 	20
D	Job in a shortage occupation and the applicant's salary equals or exceeds both: <ul style="list-style-type: none"> • £20,480 per year; and • 80% of the going rate for the occupation code. 	20
E	Applicant is a new entrant to the labour market*** and their salary equals or exceeds both: <ul style="list-style-type: none"> • £20,480 per year; and • 70% of the going rate for the occupation code. 	20
F	Job in a listed health or education occupation and the applicant's salary equals or exceeds both: <ul style="list-style-type: none"> • £20,480 per year; and • the going rate for the occupation code. An applicant with a job in a listed health or education occupation can only be awarded tradeable points from option F.	20

* The applicant must be sponsored for a job in an appropriate occupation code listed as being “eligible for PhD points”. The University must provide a credible explanation of how the qualification is relevant to the job for which the applicant is being sponsored.

** As above. And the University must provide a credible explanation that the qualification in question is in a Science, Technology, Engineering or Mathematics (STEM) subject.

*** New entrants will now be expanded to include: those under the age of 26 on the date of application; those switching from a Student, Graduate or Tier 1 (Graduate Entrepreneur) visas or those who have held a student visa in the last two years before the apply; and those working toward recognised professional qualification or moving directly into postdoctoral positions (so long as it is in a job of code 2111/2/3/4 or 9). Granting the application must not mean the applicant's combined permission as a Skilled Worker and/or Tier 2 Migrant would be more than 4 years in total, whether or not the permission is for a continuous period.

3. Specific aspects of the new immigration system to take into account

- ❖ There will be no limit on the length of time which can be spent under the Skilled Worker route - currently, international colleagues can come to the UK with a Tier 2 (General) visa for a maximum of 5 years and 14 days.
- ❖ The resident labour market test has been abolished. However, the role the applicant is offered has to be a genuine vacancy.
- ❖ The 'cooling off' rules will no longer apply. Under the current system, people who previously held a Tier 2 visa and have returned to their home country must wait 12 months before re-applying under the same, or another, visa category.
- ❖ It will be possible to switch into the Skilled Worker route from both Tier 5 GAE and the Youth Mobility Scheme route and other visa routes without having to leave and apply from outside the UK.
- ❖ Going rates for occupation codes are based on a 39-hour week and will be pro-rated to the applicant's working pattern as follows:

(the going rate for the occupation code stated in Table 1 of Appendix Skilled Occupations) x (the number of weekly working hours stated by the sponsor ÷ 39)

- ❖ Home Office are working on an eligibility assessment tool for the Skilled Worker route which will be available through Gov.uk (no date yet). It will be designed to help both individuals and sponsors assess whether an application will be likely to succeed, as well as prepare the individual for undertaking the visa application. The tool will have a behind the scenes intuitive 'decision tree' approach, with a series of Y/N answers taking the individual to the next relevant question/decision, with links and/or descriptors in most fields.
- ❖ The University will have to apply for a Defined CoS (re-branded name for Restricted CoS) now for all those who are applying from overseas (previously there was an exemption for PhD level roles). However, decisions by the Home Office are made in real-time and the University can apply as it goes along, receiving the response hopefully within one day.
- ❖ EEA and Swiss Citizens can continue to use their passport and national identity cards to evidence their right to work until the end of the grace period, **30 June 2021**, or if they have status under the EU Settlement Scheme or the new points-based immigration system, they can choose to evidence their right to work using the Home Office online checking service. Employers cannot insist that they use the online service or discriminate against those who wish to use their passport or national identity card.
- ❖ There is no requirement for a follow up check to be undertaken on EEA or Swiss Citizens who were employed on or before 30 June 2021. The University will maintain a continuous statutory excuse against a civil penalty if the initial checks were undertaken in line with the guidance unless it is known or there is a reasonable cause to believe that the Right to Work has been lost.
- ❖ It is worth noting that some roles relevant to Oxford Brookes, such as IT business analysts, architects and systems designers, are included in the Shortage Occupation List
- ❖ Although Librarians, HR Officers, Nursery Assistants roles are listed in the 'Eligible occupation codes' table, roles like Admissions Officers and Library Assistants are not eligible for the Skilled Worker route. Therefore, each individual case of appointing migrants should be

discussed with the Human Resources Recruitment team before any definite decision is made.

- ❖ Occupational code 4114 'Officers of nongovernmental organisations' seems very broad and the University could potentially use this code for most of the administrative roles as the description includes 'Administrator (charitable organisation)'.
- ❖ Skilled Worker Application Fees:
 - Assigning a Certificate of Sponsorship (CoS): £199
 - Immigration Skills Charge (ISC): £364 for any stated period of employment up to 12 months, plus £182 for each subsequent 6-month period stated on the CoS. There are a few exemptions from ISC and they include for example a worker who is applying for entry clearance from outside the UK for a period of less than 6 months and a worker who is being sponsored to do any of the following occupations - 2111 (chemical scientists), 2112 (biological scientists and biochemists), 2113 (physical scientists), 2114 (social and humanities scientists), 2119 (natural and social science professionals not elsewhere classified), 2150 (research and development managers), 2311 (higher education teaching professionals).
 - Visa application fee: £610 (CoS for <3 years) or £1,220
 - Immigration Health Surcharge: £624 per year for each adult; £470 per year for each child.

4. Examples

Mr A is appointed to a **Postgraduate Research Assistant in Physical Science** role under SOC Code 2119 (natural and social science professionals) on a three-year contract at 37 hours per week. Mr A's starting salary will be £24,461 (grade 6). Mr A is 24 years old.

- » The going rate for SOC Code 2119 at 39 hours per week is £33,000 which means the going rate Mr A (on 37 hours per week) is: £31,308
- » Mr A's salary will be below the general threshold of £25,600 and below the applicable going rate therefore Mr A cannot automatically score 20 points for salary.
- » Mr A does not hold a PhD in a subject relevant to the job yet and the role is not listed in the Shortage Occupation list. Therefore, option B, C and E are not relevant.
- » However, Mr A will be a 'New Entrant' and will be given a CoS of less than 4 years (to match the length of the contract) which means that he is able to 'trade points' for salary. Given he is paid 70% of going rate, he gains the additional 20 points required.

Miss B is appointed to a **Postdoctoral Research Assistant in Computer Science** role under SOC Code 2119 (natural and social science professionals) on a permanent contract at 37 hours per week. Miss B's starting salary will be £27,511 (grade 7). Miss B holds a PhD in Information Technology.

- » The going rate for SOC Code 2119 at 39 hours per week is £33,000 which means the going rate Miss B (on 37 hours per week) is: £31,308
- » Miss B's salary will be above the general threshold of £25,600 but below the applicable going rate therefore Miss B cannot automatically score 20 points for salary.
- » Miss B does hold a PhD in a STEM subject relevant to the job and her salary exceeds the general threshold of £20,480 and 80% of the applicable going rate. This means she will get the additional 20 points needed.
- » If Miss B did not hold a PhD in a STEM subject she would not be able to get the additional 20 points needed as her salary would not exceed the 90% of the applicable going rate.
- » If Miss B did not hold a PhD in a specifically STEM subject but still in a subject relevant to the job *and* her salary was £28,331 per year (point 24 of the grade 7) she would be able to get the additional 20 points needed as her salary would exceed the 90% of the applicable going rate.

Dr C is appointed to a **University Lecturer** role under SOC Code 2311 (higher education teaching professionals) on a permanent contract at 37 hours per week. Dr C's starting salary will be £35,845 (grade 9). Dr C holds a PhD in Electrical Engineering relevant to the job.

- » The going rate for SOC Code 2311 at 39 hours per week is £40,700 which means the going rate for Dr C (on 37 hours per week) is: £38,613.
- » Dr C's salary will be above the general threshold of £25,600 but below the applicable going rate therefore Dr C cannot automatically score 20 points for salary.
- » However, Dr C holds a PhD in a STEM subject relevant to the job which means they are able to 'trade points' for salary. As Dr C's salary is over 80% of going rate, they are able to get the additional 20 points needed.
- » If Dr C did not hold a PhD in a STEM subject but a PhD in a subject relevant to the job it would be possible to 'trade points' for salary. As Dr C's salary is over 90% of going rate, they are able to get the additional 20 points needed.

Mr D is appointed to a **Teaching Fellow** role under SOC code 2311 (higher education teaching professionals) on a two-year contract at 37 hours per week. Mr D's starting salary will be £31,866 (grade 8). He is working towards a PhD in Marketing which is relevant to his role.

- » The going rate for SOC Code 2311 at 39 hours per week is £40,700 which means the going rate for Mr D (on 37 hours per week) is: £38,613.
- » Mr D's salary will be below the applicable going rate but above the general threshold of £25,600. Therefore Mr D cannot automatically score 20 points for salary.
- » Mr D does not have a PhD but he does meet the criteria for a 'New Entrant' and will be given a CoS of less than 4 years (to match the length of the contract) which means that he is able to 'trade points' for salary. Given he is paid 70% of going rate, he gains the additional 20 points required.
- » If Mr D did not meet the criteria for a 'New entrant' he would score 0 points for salary and would not be eligible for sponsorship.

Mrs E is appointed to a **Librarian** role under SOC code 2451 (Librarians) on a permanent contract at 37 hours per week. Mrs E's starting salary will be £31,866 (grade 8).

- » The going rate for SOC Code 2451 at 39 hours per week is £21,800 which means the going rate for Mrs E (on 37 hours per week) is: £20,682
- » Mrs E's salary will be above the applicable going rate and above the general threshold of £25,600. Therefore Mrs E can automatically score 20 points for salary.

Mr F is appointed to a **Faculty Administrator** role under SOC code 4114 (Officers of nongovernmental organisations) on a permanent contract at 37 hours per week. Mr F's starting salary will be £24,461 (grade 6).

- » The going rate for SOC Code 4114 at 39 hours per week is £22,900 which means the going rate for Mr F (on 37 hours per week) is: £21,726

- » Mr F's salary will be above the applicable going rate but below the general threshold of £25,600. Therefore Mr F cannot automatically score 20 points for salary.
- » The role is not eligible for PhD points and Mr F does not meet the criteria for the 'New Entrant'; he scores 0 points for salary and is not eligible for sponsorship.
- » If Mr F's salary was £25,941 (point 21 of the grade 6), it would be above the applicable going rate and above the general threshold of £25,600. Therefore Mr F would automatically score 20 points for salary.
- » If Mr F would meet the criteria for the 'New Entrant' (he would be paid 70% of applicable going rate) he would be able to score 20 points for salary but his contract of employment would have to be shortened to 4 years.